REMARKS

Claims 1-3, 6-16, and 18-24 are pending in the present application.

In the Office Action, the Examiner objected to claim 6. Applicant has amended claim 6 as indicated above and requests that the Examiner's objection to claim 6 be withdrawn.

In the Office Action, claims 1 and 15 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Choksi (U.S. Patent No. 6,978,144). Claims 2-3, 6, 14, 16, and 18-24 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Choksi in view of Koulakiotis, et al. (U.S. Patent Application Publication No. 2003/0104801). The Examiner's rejections are respectfully traversed.

Choksi describes a communication system 10 that includes a cellular wireless network in which terrestrial wireless transmissions originate in geographically delimited cells. See Choksi, col. 2, ll. 63-67 and Figure 1. Choksi also describes a bandwidth allocation controller 70 that controls bandwidth requests for connections in a cell 34 to prevent the cell 34 from exceeding its maximum transmit power and thereby damaging its transmitter. See Choksi, col. 4, ll. 32-36 and Figure 2. The bandwidth controller 70 uses a call bandwidth blocking threshold 80 that identifies a transmit power level of the cell over which a new call or additional bandwidth for an ongoing call will be blocked. See Choksi, col. 5, ll. 1-5 and Figure 2. A handoff blocking threshold 110 identifies the power level of the cell 34 over which handoff requests will be blocked. See Choksi, col. 4, ll. 63-66 and Figure 2. Choksi states that the current, real-time bandwidth usage of the cell may be compared to the blocking thresholds 80, 110 to determine whether or not to admit new calls. See Choksi, col. 7, ll. 43-48 and Figure 4.

However, Choksi does not teach or suggest determining the number of subscription-based service subscribers within a cell or determining at least one of a geographical distribution of a

number of multicast service subscribers and a subscription distribution of the number of multicast service subscribers within the cell, as set forth in independent claims 1 and 15. To the contrary, Choksi is only concerned with the overall bandwidth usage of the cell and is not concerned with the number or geographical distribution of the service subscribers. Accordingly, Choksi also fails to teach or suggest assigning at least one service rate to at least one of a plurality of subscription-based service types in response to at least one of the determined geographical distribution and the determined subscription distribution, as set forth in independent claim 1. Choksi also fails to teach or suggest receiving a subscription-based service at an assigned service rate, the assigned service rate corresponding to at least one of a determined geographical distribution of a number of multicast service subscribers and a determined subscription distribution of the number of multicast service subscribers within the cell, as set forth in independent claim 15.

For at least the aforementioned reasons, Applicant respectfully submits that claims 1 and 15 are not anticipated by Choksi and requests that the Examiner's rejections of claims 1 and 15 under 35 U.S.C. § 102(e) be withdrawn.

Moreover, it is respectfully submitted that the pending claims are not obvious in view of Choksi and Koulakiotis. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). As discussed above, Choksi does not teach or suggest determining the number of subscription-based service subscribers within a cell or determining at least one of a geographical distribution of a number of multicast service subscribers and a subscription distribution of the number of multicast service subscribers within the cell, as set forth in independent claims 1 and 15. Choksi also fails to teach or suggest

assigning at least one service rate to at least one of a plurality of subscription-based service types in response to at least one of the determined geographical distribution and the determined subscription distribution, as set forth in independent claim 1. Choksi also fails to teach or suggest receiving a subscription-based service at an assigned service rate, the assigned service rate corresponding to at least one of a determined geographical distribution of a number of multicast service subscribers and a determined subscription distribution of the number of multicast service subscribers within the cell, as set forth in independent claim 15.

The Examiner relies upon Koulakiotis to describe various aspects of multicasting. However, Koulakiotis fails to remedy the aforementioned fundamental deficiencies of Choksi. Applicant therefore respectfully submits that the cited references fail to teach or suggest all the limitations set forth in pending claims. Furthermore, the cited references fail to provide any suggestion or motivation to modify the prior art of record to arrive at the claimed invention. To the contrary, Choksi is only concerned with the overall bandwidth usage of the cell and is not concerned with the number or geographical distribution of the service subscribers. Accordingly, Choksi provides no suggestion or motivation for determining the number or geographical distribution of service subscribers or for using this information to determine service rates.

For at least the aforementioned reasons, Applicant respectfully submits that the pending claims are not obvious over the prior art of record and requests that the Examiner's rejections of claims 2-3, 6, 14, 16, and 18-24 under 35 U.S.C. § 103(a) be withdrawn.

In the Office Action, the Examiner indicated that claims 7-13 include allowable subject matter. For at least the reasons discussed above with regard to independent claims 1 and 15, Applicant respectfully submit that claims 7-13 are in condition for allowance.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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